

Notice of Privacy Practices

Heartlight Therapy, PLLC

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NOTICE OF PRIVACY PRACTICES

THIS NOTICE DESCRIBES HOW HEALTH INFORMATION MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.

I. MY PLEDGE REGARDING HEALTH INFORMATION:

I understand that health information about you and your health care is personal. I am committed to protecting health information about you. I create a record of the care and services you receive from me. I need this record to provide you with quality care and to comply with certain legal requirements. This notice applies to all of the records of your care generated by this mental health care practice.

This notice will tell you about the ways in which I may use and disclose health information about you.

I also describe your rights to the health information I keep about you, and describe certain obligations I have regarding the use and disclosure of your health information. I am required by law to:

Make sure that protected health information ("PHI") that identifies you is kept private.

Give you this notice of my legal duties and privacy practices with respect to health information.

Follow the terms of the notice that is currently in effect.

I am also required by law to provide you with adequate notice of your rights and my legal duties if I create or maintain records protected by 42 C.F.R. Part 2.

I can change the terms of this Notice, and such changes will apply to all information I have about you. The new Notice will be available upon request, in my office, and on my website.

II. HOW I MAY USE AND DISCLOSE HEALTH INFORMATION ABOUT YOU

The following categories describe different ways that I use and disclose health information. Not every use or disclosure in a category will be listed. However, all of the ways I am permitted to use and disclose information will fall within one of the categories. We can discuss any questions you may have about these rules.

For Treatment:

Your PHI may be used and disclosed by those who are involved in your care for the purpose of providing, coordinating, or managing your health care treatment and related services (if you are in a hospital setting with multiple providers). This includes consultation with clinical supervisors or other treatment team members. For example, if a clinician were to consult with another licensed health care provider about your condition, we would be permitted to use and disclose your personal health information, which is otherwise confidential, in order to assist the clinician in diagnosis and treatment of your mental health condition.

For Payment:

I may use and disclose PHI so that we can receive payment for the treatment services provided to you. This will only be done with your authorization. Examples of payment related activities are: making a determination of eligibility or coverage for insurance benefits, processing claims with your insurance company, reviewing services provided to you to determine medical necessity, or undertaking utilization review activities. If it becomes necessary to use collection processes due to lack of payment for services, we will only disclose the minimum amount of PHI necessary for purposes of collection.

For Health Care Operations:

We may use or disclose, as needed, your PHI in order to support our business activities including, but not limited to, quality assessment activities, employee review activities, licensing, and conducting or arranging for other business activities. For example, we may share your PHI with third parties that perform various business activities (e.g., billing or typing services) provided we have a written contract with the business that requires it to safeguard the privacy of your PHI. For training or teaching purposes PHI will be disclosed only with your authorization.

*If your records are protected under 42 C.F.R. Part 2, certain uses and disclosures permitted by HIPAA for treatment, payment, and health care operations are materially limited by the stricter standards of those regulations. Furthermore, information disclosed pursuant to these rules may be subject to redisclosure by the recipient and may no longer be protected by federal privacy standards.

Disclosures for treatment purposes are not limited to the minimum necessary standard. Because therapists and other health care providers need access to the full record and/or full and complete information in order to provide quality care. The word "treatment" includes, among other things, the coordination and management of health care providers with a third party, consultations between

health care providers and referrals of a patient for health care from one health care provider to another.

Required by Law:

*Lawsuits and Disputes: If you are involved in a lawsuit, I may disclose health information in response to a court or administrative order. I may also disclose health information about your child in response to a subpoena, discovery request, or other lawful process by someone else involved in the response to a subpoena, discovery request, or other lawful process by someone else involved in the dispute, but only if efforts have been made to tell you about the request or to obtain an order protecting the information requested. However, for records protected by 42 C.F.R. Part 2, such

records or testimony relating their content shall not be used or disclosed in civil, criminal, administrative, or legislative proceedings against you unless you provide specific written consent or a court order is issued in accordance with 42 C.F.R. Part 2.

*Under the law, we must disclose your PHI to you upon request. In addition, we must make disclosures to the Secretary of the Department of Health and Human Services for the purpose of investigating or determining our compliance with the requirements of the Privacy Rule.

III. CERTAIN USES AND DISCLOSURES REQUIRE YOUR AUTHORIZATION:

1. Psychotherapy Notes. I do keep "psychotherapy notes" as that term is defined in 45 CFR § 164.501, and any use or disclosure of such notes requires your Authorization unless the use or disclosure is:
 - a. For my use in treating you.
 - b. For my use in training or supervising mental health practitioners to help them improve their skills in group, joint, family, or individual counseling or therapy.
 - c. For my use in defending myself in legal proceedings instituted by you.
 - d. For use by the Secretary of Health and Human Services to investigate my compliance with HIPAA.
 - e. Required by law and the use or disclosure is limited to the requirements of such law.
 - f. Required by law for certain health oversight activities pertaining to the originator of the psychotherapy notes.
 - g. Required by a coroner who is performing duties authorized by law.
 - h. Required to help avert a serious threat to the health and safety of others.
2. Substance Use Disorder (SUD) Counseling Notes. I may also maintain "SUD counseling notes," which are notes recorded by a substance use disorder provider documenting the contents of a counseling session. Any use or disclosure of these notes requires your separate written authorization, which cannot be combined with a consent for other types of records. You can revoke your consent at any time except to the extent that I have already acted upon it to disclose these notes in accordance with your initial authorization.
3. Marketing Purposes. As a psychotherapist, I will not use or disclose your PHI for marketing purposes.

4. Sale of PHI. As a psychotherapist, I will not sell your PHI in the regular course of my business.

IV. CERTAIN USES AND DISCLOSURES DO NOT REQUIRE YOUR AUTHORIZATION. The following is a list of the categories of uses and disclosures permitted by HIPAA without an authorization. Applicable law and ethical standards permit us to disclose information about you without your authorization only in a limited number of situations. As a social worker licensed in this state and as a member of the National Association of Social Workers, it is our practice to adhere to more stringent privacy requirements for disclosures without an authorization. Subject to certain limitations in the law, and following the practices consistent with the NASW Code of Ethics and HIPAA, I can use and disclose your PHI without your Authorization for the following reasons:

1. When disclosure is required by state or federal law, and the use or disclosure complies with and is limited to the relevant requirements of such law.

2. For public health activities, including reporting suspected child, elder, or dependent adult abuse, or preventing or reducing a serious threat to anyone's health or safety.

-Child Abuse or Neglect and Elder or Dependent Adult Abuse or Neglect. I am a mandated reporter, who must by law report suspected child, elder, or dependent adult abuse and neglect. In order to prevent or reduce a serious threat to anyone's health or safety, I may disclose your PHI to a state or local agency that is authorized by law to receive reports of child abuse or neglect and elder and dependent disabled adult abuse or neglect.

-This includes sexual activity of a person 4 years older than a minor under the age of 15, and sexual activity of a teen between the ages of 15-17 with a person 10 years older. It also includes sexual activity of a minor with a person in a position of trust.

-Public Safety, Duty to Warn. I may disclose your PHI if necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public. If information is disclosed that is a serious threat, it will be disclosed to a person or persons (typically the police) reasonably able to prevent or lessen the threat, including the target of the threat.

-Threats of Suicide and Family Involvement in Care. I may disclose information to close family members or friends directly involved in your treatment based on your consent or as necessary to prevent serious harm. I may contact your emergency contact if there is a concern for your safety. Also, I may need to contact an agency or involve crisis services if you are planning or threatening to commit suicide.

-Medical Emergencies. I may use or disclose your PHI in a medical emergency situation to medical personnel only in order to prevent serious harm. I will try to provide you a copy of this notice as soon as reasonably practicable after the resolution of the emergency (if you have not already signed it).

-Public Health. If required, I may use or disclose your PHI for mandatory public health activities to a public health authority authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury or disability, or if directed by a public health authority, to a government agency that is collaborating with that public health authority.

3. For health oversight activities, including audits and investigations.

-Health Oversight. If required, I may disclose PHI to a health oversight agency for activities authorized by law, such as audits, investigations, and inspections. Oversight agencies seeking this information include government agencies and organizations that provide financial assistance to the program (such as third-party payers based on your prior consent) and peer review organizations performing utilization and quality control.

4. For judicial and administrative proceedings, including responding to a subpoena, court or administrative order, or similar process, although my preference is to obtain an Authorization from you before doing so.

5. For law enforcement purposes, including reporting crimes occurring on my premises.

-Law Enforcement. I may disclose PHI to a law enforcement official as required by law, in compliance with a subpoena, court order, administrative order or similar document, for the purpose of identifying a suspect, material witness or missing person, in connection with the victim of a crime, in connection with a deceased person, in connection with the reporting of a crime in an emergency, or in connection with a crime on the premises.

6. To coroners or medical examiners, when such individuals are performing duties authorized by law.

-Deceased Patients. I may disclose PHI regarding deceased patients as mandated by state law (to coroners or medical examiners), or to a family member or friend that was involved in your care or payment for care prior to

death, based on your prior consent. A release of information regarding deceased patients may be limited to an executor or administrator of a deceased person's estate or the person identified as next-of-kin. PHI of persons that have been deceased for more than fifty (50) years is not protected under HIPAA.

7. For research purposes, including studying and comparing the mental health of patients who received one form of therapy versus those who received another form of therapy for the same condition

8. Specialized government functions, including ensuring the proper execution of military missions; protecting the President of the United States; conducting intelligence or counter-intelligence operations; or helping to ensure the safety of those working within or housed in correctional institutions.

-Specialized Government Functions. We may review requests from U.S. military command authorities if you have served as a member of the armed forces, authorized officials for national security and intelligence reasons and to the Department of State for medical suitability determinations, and disclose your PHI based on your written consent, mandatory disclosure laws and the need to prevent serious harm.

9. For workers' compensation purposes. Although my preference is to obtain an Authorization from you, I may provide your PHI in order to comply with workers' compensation laws.

10. Appointment reminders and health related benefits or services. I may use and disclose your PHI to contact you to remind you that you have an appointment with me. I may also use and disclose your PHI to tell you about treatment alternatives, or other health care services or benefits that I offer.

11. **Professional Will.** In order to protect your PHI, I will

designate a fellow licensed professional to follow through with notifications, referrals, and record retention upon my sudden death, disability, or inability to perform my duties as a therapist. Upon my inability to perform my duties, my professional Will will ensure that your PHI is protected from my family or friends.

V: In Regards to Minor Children's PHI. HIPAA Privacy Rule Applicability

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) authorized the promulgation of federal regulations regarding medical privacy (the Privacy Rule) which were amended in 2002. The HIPAA Privacy Rule provides that generally the parents of a minor child are deemed to be the child's "personal representative" for purposes of exercising the child's privacy rights, but also provides several bases for denying a parent access to a child's records.

- The Privacy Rule follows existing state law as to access to records by parents of minors. Thus, if a state allows minors of a certain age to consent to treatment independently, and also prohibits disclosures to parents, then the practitioner should deny access by the parent. In Colorado the age of consent is currently 12 years of age. I will respect the confidentiality of personal information disclosed to me by children age 12 and over and only share confidential information that the child is comfortable sharing with their parents and safety concerns.
- The other rules for sharing a child's PHI are as noted in this document for safety reasons. At Heartlight Therapy, these same confidentiality rules will be in place for children under 12 being seen as well, unless otherwise agreed upon in writing by Heartlight Therapy and the child's parents. It is my opinion that children who know their confidentiality will be respected, are more likely to benefit from therapy since they feel they have a safe place to talk about what they need to without it being shared with others. Concerns for the child's safety will be disclosed to the legal guardians of the child when appropriate and possibly to social agencies if necessary.
- The Privacy Rule also permits practitioners to deny access by parents if the parents previously agreed that the minor child's information would be kept confidential from the parents. This document is the agreement that a child's confidential information will be kept confidential unless the child agrees to share that information except the information mentioned above.
- In the case of a child with divorced or separated parents, at Heartlight Therapy, both parents will need to consent to treatment and to sign this agreement in order for your child to be seen in this therapy practice. The parent that has the right to make decisions and has documented sole legal custody and decision making authority may sign the paperwork and consent to therapy services at Heartlight Therapy alone. Unless there is written documentation showing sole legal custody of the parent bringing the child to therapy, it will be assumed that the other parent has the legal right to the

child's confidential information. This means that both parents must sign this consent to allow for the confidentiality of that protected information. This practice will not be used for custody disputes. This practice will work solely for the benefit of the child client to have their social emotional needs met. I do not testify in court in custody dispute cases. If that is a possible need then another practice that specializes in that area would be a better fit.

- The Privacy Rule permits providers to deny access by a personal representative if access is likely to cause substantial harm to the client. An example would be a situation where the social worker has legitimate concerns about potential child abuse by the parent who is requesting the minor's records. Social workers may choose not to treat the parent as the minor's personal representative under those circumstances by following certain procedures. A written determination of the denial is to be provided to the parent, and a right is provided for the parent to have the initial denial reviewed by another mental health professional of the provider's choosing. A recommendation regarding access by the reviewing professional becomes mandatory for the treating clinician to follow. In addition, HIPAA requires that all documentation about the request by a personal representative and any denial of access is to be included as part of the medical record.
- The Privacy Rule permits practitioners to deny access to "psychotherapy notes" that are maintained separately from the general clinical file. Thus, having notes from child therapy sessions in a file separate from the child's formal record of evaluations, summary progress notes, session start and stop times, dates of treatment, and billing information may provide additional privacy protection for child clients.

VI. CERTAIN USES AND DISCLOSURES REQUIRE YOU TO HAVE THE OPPORTUNITY TO OBJECT.

1. Disclosures to family, friends, or others: I may provide your PHI to a family member, friend, or other person that you indicate is involved in your care or the payment for your health care, unless you object in whole or in part. The opportunity to consent may be obtained retroactively in emergency situations.
2. Fundraising: If I intend to use or disclose your records protected by 42 C.F.R. Part 2 for fundraising for my benefit, I will provide you with a clear and conspicuous opportunity to opt-out before any such use or disclosure occurs.

VII. YOU HAVE THE FOLLOWING RIGHTS WITH RESPECT TO YOUR PHI:

You have the following rights regarding PHI I maintain about you. To exercise any of these rights, please submit your request in writing through the patient portal at <https://wendwitter.clientsecure.me>.

1. The Right to Request Limits on Uses and Disclosures of Your PHI:

You have the right to ask me not to use or disclose certain PHI for treatment, payment, or health care operations purposes. I am not required to agree to your request, and I may say "no" if I believe it would affect your health care.

2. The Right to Request Restrictions for Out-of-Pocket Expenses Paid for In Full:

You have the right to request restrictions on disclosures of your PHI to health plans for payment or health care operations purposes if the PHI pertains solely to a health care item or a health care service that you have paid for out-of-pocket in full.

3. You have the right to ask me to contact you in a specific way (for example, home or office phone) or to send mail to a different address, and I will agree to all reasonable requests. I may require information regarding how payment will be handled or specification of an alternative address or other method of contact as a condition for accommodating your request. You do not need to give an explanation of why you are making that request.
4. The Right to See and Get Copies of Your PHI. Other than "psychotherapy notes" and "SUD counseling notes" you have the right to get an electronic or paper copy of your medical record and other information that I have about you. I will provide you with a copy of your record, or a summary of it, if you agree to receive a summary, within 30 days of receiving your written request, and I may charge a reasonable, cost-based fee for doing so.

-You have the right, which may be restricted only in exceptional circumstances, to inspect and copy PHI that is maintained in a "designated record set." A designated record set contains mental health/medical and billing records and any other records that are used to make decisions about your care. Your right to

inspect and copy PHI will be restricted only in those situations where there is compelling evidence that access would cause serious harm to you or if the information is contained in separately maintained psychotherapy notes.

5. **The Right to Get a List of the Disclosures I Have Made.** You have the right to request a list of instances in which I have disclosed your PHI for purposes other than treatment, payment, or health care operations, or for which you provided me with an Authorization. I will respond to your request for an accounting of disclosures within 60 days of receiving your request. The list I will give you will include disclosures made in the last six years unless you request a shorter time. I will provide the list to you at no charge, but if you make more than one request in the same year, I will charge you a reasonable cost-based fee for each additional request. You also have the right to request an accounting of disclosures specifically for your substance use disorder records protected under 42 C.F.R. Part 2.

6. **The Right to Correct or Update Your PHI.** If you believe that there is a mistake in your PHI, or that a piece of important information is missing from your PHI, you have the right to request that I correct the existing information or add the missing information. I may say "no" to your request, but I will tell you why in writing within 60 days of receiving your request.

7. **The Right to Get a Paper or Electronic Copy of this Notice.** You have the right to get a paper copy of this Notice, and you have the right to get a copy of this notice by e-mail. And, even if you have agreed to receive this Notice via e-mail, you also have the right to request a paper copy of it.

8. **Breach Notification.** If there is a breach of unsecured PHI concerning you, I may be required to notify you of this breach, including what happened and what you can do to protect yourself.

VII. COMPLAINTS

If you believe I have violated your privacy rights, you have the right to let me know of this breach and to file a complaint with the Colorado Department of Regulatory Agencies, Division of Professions and Occupations, 1560 Broadway, Suite 1350, Denver, CO 80202, 303-894-7800. **I will not retaliate against you for filing a complaint.**

IX. Acknowledgement of Receipt of Privacy Notice

Under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), you have certain rights regarding the use and disclosure of your protected health information. By checking the box below, you are acknowledging that you have received a copy of HIPAA Notice of Privacy Practices.

BY SIGNING BELOW I AM AGREEING THAT I HAVE READ, UNDERSTOOD AND AGREE TO THE ITEMS CONTAINED IN THIS DOCUMENT.